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March 8, 1994

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MAR - 8 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY


Mr. William Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MM Docket 93-89
Culebra, PR
Submission of Settlement Documents


Dear Mr. Caton:

For Aurio A. Matos ("Matos") and Lloyd Santiago-Santos and Lourdes Rodrigues-Bonet (Santiago and Rodrigues"), we are filing an original and 11 copies of a Joint Request for Approval of Settlement Agreement. The Joint Request is accompanied by several exhibits including the Settlement Agreement and Declarations of the applicants in compliance with Section 73.3525 of the Commission's Rules. A statement from the consulting engineer used by Santiago and Rodrigues, verifying their charges, has not yet been received by their counsel. Upon receipt, it will be promptly submitted.

Respectfully submitted,


Audrey P. Rasmussen
David L. Hill
O'CONNOR & HANMAN
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Counsel for Lloyd Santiago-Santos &
Lourdes Rodrigues-Bonet


Scott C. Cinnamon
BROWN NIETERT & KAUFMAN
1920 N Street, N.W.
Suite 660
Washington, D.C. 20036

Counsel for Aurio A. Matos

cc w/enc (by hand): Joseph A. Marino, Chairman, Review Board
Marjorie Reed Greene, Member, Review Board
Norman B. Blumenthal, Member, Review Board
Audrey L. Allison, Esq., Review Board
Gary Schonman, Esq., Mass Media Bureau

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MAR 8 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of)	MM Docket No. 93-89
)	
AURIO A. MATOS)	File No. BPH-911114MS
)	
LLOYD SANTIAGO-SANTOS and LOURDES)	
RODRIGUES BONET)	File No. BPH-911115MP
)	
For Construction Permit for a New)	
FM Station on Channel 293A in)	
Culebra, Puerto Rico)	

To: The Review Board

JOINT REQUEST FOR APPROVAL OF
SETTLEMENT AGREEMENT

Aurio A. Matos ("Matos") and Lloyd Santiago-Santos and Lourdes Rodrigues-Bonet ("Santiago and Rodrigues"), by their attorneys and pursuant to Section 73.3523 of the Commission's Rules, hereby respectfully submit this Joint Request for Approval of Settlement Agreement, and request that the Settlement Agreement (the "Agreement") attached hereto be approved by the Review Board. The Agreement, which will accomplish a universal settlement of the above-referenced proceeding, calls for grant of the Matos application, and the voluntary dismissal of the mutually-exclusive application of Santiago and Rodrigues for the consideration set forth in the Agreement.

I. Introduction

1. This proceeding was designated for hearing by Hearing Designation Order, DA-93-331, released April 8, 1993. The Matos and Santiago and Rodrigues applications are mutually exclusive with each other such that only one of the two applications can be granted. In an Initial Decision, FCC 93D-20, released November 4,

1993, the Presiding Judge in this proceeding found Matos to be the comparatively superior applicant and proposed the grant of his application and dismissal of the Santiago and Rodrigues application. Santiago and Rodrigues filed exceptions to the ID on December 6, 1993. Matos filed contingent exception to the ID on December 3, 1993. Both parties filed reply exceptions on December 20, 1993. On January 28, 1994, the Mass Media Bureau file a Motion to Reopen the Record and Enlarge Issues against Matos. Matos has opposed the motion and the Bureau has filed its reply. These pleadings are all pending before the Review Board.

2. In the absence of a settlement, the Review Board would have to render a decision on the pleadings (with or without oral argument), and that decision would then be subject to appeal. Approval of the Agreement will eliminate the need for any further hearings or briefs.

II. The Settlement Agreement

3. The parties, upon discussions between principals and their counsel, have concluded that the public interest would best be served by settling this case and allowing the Matos application to go forward to grant. To that end, Matos and Santiago and Rodrigues have executed a Settlement Agreement whereby Santiago and Rodrigues have agreed to voluntarily dismiss their application for the monetary consideration set forth in the Agreement. An executed copy of the Agreement is attached as Exhibit 1 and grant of the Matos application.

4. Consummation of the Agreement is contingent upon the

Commission's approval of the Agreement, acceptance of the amendment filed by Matos on February 7, 1994 and denial of the Petition to Reopen the Record and Enlarge Issues filed by the Mass Media Bureau on January 28, 1994.

III. Public Interest Showing

5. Grant of this Joint Request and approval of the Agreement would serve the public interest. The resources of both the parties and the Commission would be conserved, and the community of Culebra, Puerto Rico would receive a new local FM service at an early date. The Commission, in a Public Notice released February 25, 1994, encouraged applicants in all pending comparative hearings to seek settlements and avoid litigation.

6. Also attached hereto are Declarations of the principals stating why they believe the Agreement is in the public interest, that their applications were not filed for the purpose of reaching or achieving a settlement and that the Agreement is the only settlement agreement between the parties, with no other consideration having been paid or promised.

7. Exhibit 2 is the Declaration of Aurio A. Matos, Exhibit 3 is the Declaration of Lloyd Santiago-Santos and Exhibit 4 is the Declaration of Lourdes Rodrigues-Bonet.

IV. Qualifications of Prevailing Applicant

8. No basic qualifying issues have been designated against Matos. At this time, there is a pending Motion to Reopen the Record and Enlarge the Issues against Matos filed by the FCC's Mass

Media Bureau ("MMB") on January 28, 1994. Matos has filed his Opposition and the MMB has replied. The Settlement Agreement is contingent upon the denial of the MMB Motion.

9. Matos has also filed a Petition for Leave to Amend seeking permission to amend his proposal to specify a new transmitter site. The pleading cycle for oppositions or comments on the Petition has expired, so the matter is ripe for decision. Consummation of the Agreement is also contingent upon acceptance of the amendment.

10. The parties request expedited consideration of the MMB Motion and the Matos Petition to facilitate prompt resolution of the Settlement Agreement.

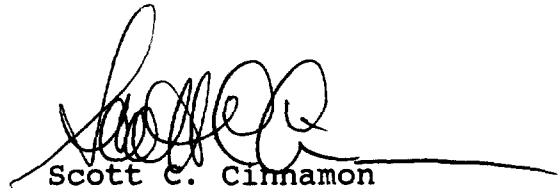
WHEREFORE, the undersigned respectfully request (1) that the Joint Request for approval of Settlement be granted; (2) that the MMB Petition be denied (3) that the Matos Amendment be accepted; (4) that the Santiago and Rodrigues application be dismissed and (5) that simultaneously the Matos application be granted.

Respectfully submitted,



Audrey P. Rasmussen
David L. Hill
O'CONNOR & HANNAN
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Counsel for Lloyd Santiago-Santos &
Lourdes Rodrigues-Bonet



Scott C. Cinnamon
BROWN NIETERT & KAUFMAN
1920 N Street, N.W.
Suite 660
Washington, D.C. 20036

Counsel for Aurio A. Matos

Date: March 8, 1994

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and between Aurio A. Matos ("Matos") and Lloyd Santiago-Santos and Lourdes Rodriques-Bonet ("Santiago and Rodriques") (collectively the "Parties") on this 1 day of March 1994.

WHEREAS, Matos has filed an application for a new FM Station on Channel 293A at Culebra, Puerto Rico (BPH-911114MS); and,

WHEREAS, Santiago and Rodriques have filed an application for a new FM Station on Channel 293A at Culebra, Puerto Rico (BPED-911115MP) ; and,

WHEREAS, these two applications, proposing the same channel to serve the same community of license, are mutually exclusive such that only one of the applications ma be granted; and,

WHEREAS, Matos wishes to promptly construct an FM Station on Channel 293A in Culebra, Puerto Rico, and his construction permit can only be granted upon dismissal of Santiago and Rodriques application; and

WHEREAS, Matos did on February 7, 1994, file a Petition for Leave to Amend and contemporaneously under separate cover, an amendment proposing a new transmitter site (the "Matos Amendment"); and,

WHEREAS, the Mass Media Bureau (the "MMB") did on January 28, 1994, file a Motion to Reopen the Record and Enlarge the Issues against Matos (the "MMB Motion") which Matos opposed and the MMB filed a reply; and,

WHEREAS, the Parties agree that consummation of this

Settlement Agreement is contingent upon issuance of a Final Order that denies the MMB Motion, accepts the Matos Amendment, dismisses the Santiago Rodriques application and grants the Matos application, as amended; and

WHEREAS, in light of Santiago's past broadcast experience and Rodrique's accounting and financial experience, Matos wishes to hire Santiago and Rodriques each individually, as part-time consultants to assist in the construction and initial operation of the new Culebra station; and,

WHEREAS, the Parties recognize that it is in the best interest of both of them to avoid the time and expense of continued litigation and thereby to conserve the time and resources of the FCC and the Parties; and,

WHEREAS, the parties further recognize that it is in the best interest of the public to avoid delay in implementation of the new broadcast service that would result from the grant of the Matos application


NOW, THEREFORE, in consideration of mutual promises and representations set forth below, and intending to be bound the Parties hereby agree and contract as follows:

1. Fcc Consent and Final Order. This Agreement is subject to the approval of the FCC by written order and will not be consummated until such a written order issues approving this Agreement, denying the MMB Motion, accepting the Matos Amendment, dismissing the Santiago and Rodriques application and granting the Matos application (the "Settlement Order"). Cosumation will take place within 10 days after the Settlement Order becomes a Final

Order. For purposes of this Agrrment, "Final Order" means an order with respect to wish the time for any and all requests for reconsideration, review or appeal by other parties or by the FCC on its own motion has passed, and no such request for reconsideration, review or appeal has been filed.

2. Joint Request for Approval of Agreement. (a) Within five (5) business days from the date of this Agreement, the Parties agree to file with the FCC a Joint Request for Approval of Settlement Agreement ("Joint Request"). The Joint Request shall be accompanied by a copy of this Agreement and other supporting documation required by Section 311(c) of the Communications Act of 1934, as amended, and Section 73.3525 of the Comission's Rules.

(b) The Parties will continue to extend the current suspension of procedural dates initially requested by Parties on January 19, 1994, until such time as a Settlement Order issues and becomes a Final order or this Agreement is abandoned.


 (c) The Parties agree that time is of the essence and each Party agrees to promptly submit to the FCC any additional information which from time to time is reasonably requested by the FCC for the purpose of securing the Settlement Order contemplated by paragraph 1, above, and causing that order to become a Final Order.

3. Dismissal of the Santiago and Rodriguez Application. Concurrently with the filing of the Joint Request, Santiago and Rodriques shall request dismissal of their pending Culebra application (BPH-911115MP) , contingent upon issuance of grant of the Matos application in a Settlement Order and that order becoming

a Final Order of the FCC.

4. Prosecution of Settlement Agreement. The parties agree to uses their best efforts to obtain approval of this Agreement and issuance of a Settlement Order from the FCC and to undertake any all steps reasonable necessary for the successful prosecution of this Agreement, including the preparation and filings to the FCC, or propose any amendments to their respective applications that would in any way delay issuance of a Settlement Order and that order becoming a Final Order of the FCC.


5. Consideration Matos agrees to pay the sum of Fifty Thousand Dollars (\$50,000.00) to Santiago and Rodriques (The "Settlement Payment"), in consideration of the voluntary dismissal by Santiago and Rodriques of their application. That sum represent an amount less than or equal to the actual legitimate and prudent expenses that Santiago and Rodriques represent that they have invested in the preparation and prosecution of their application as of this date. \$50,000.00 will be placed in escrow upon execution of the Agreement.



6. Consulting Agreement. Following the settlement Order becoming a Final Order, and issuance of the construction permit to Matos, Matos agrees to hire, on a part-time basis, both santiago and Rodriques as consultants to assist in the construction and operation of the new Culebra Station. Based on his past broadcast managerial experience, Matos shall hire santiago as Operations Consultant for the sum of \$12,500 per annum for a period of two years from the date the Matos construction permit issues. Based on her business and accounting background, Matos shall hire Rodriques

as Business and Financial Consultant for the sum of \$12,500 per annum for a period of two years from the date the Matos Construction permit issues. \$25,000 will be placed in escrow each years for that purpose upon grant of the Settlement Agreement. Both employment agreements will terminate at the end of two years.

7. Termination. If the fcc has not issued the Settlement Order February 1, 1995, then either Party may, at any time thereafter, upon ten (10) days written notice to the order Party, seek to terminate this Agreement, provided that the Party seeking to terminate the Agreement is not in default under the Agreement, provided however, that no Party may seek termination of this Agreement after the Settlement Order has been issued.



8. Notice. Any notice pursuant to or relative to this Agreement shall be sent return receipt requested and be deemed given when delivered in writing to the other Party at the addresses shown below unless a different address is provided in writing to the other Party:

To Matos: Aurio A. Matos

Apartado 7

Moca, PR 00676

with a copy, not constituting notice, to:

Scott C. cinnamon

Brown, Nietert & Kaufman

1920 N. Street, N.W., Suite 660

Washington, D.C. 20036

To Santiago and Rodriques:

Lloyd Santiago-Santos

Lourdes Rodriquez-Bonet

Marina Bahia Plaza 9 RB-35

Cataño , PR 00962

with a copy, not constituting notice to:

Audrey P. Rasmussen, Esq.


David L. Hill, Esq.

O'Connor & Hannan

1919 Pennsylvania avenue, N.W.

Suite 800

Washington, D.C. 20006



9. No Other Consideration. Each Party represents that neither it nor any person associated with it has directly or indirectly neither paid or promised to pay to nor received from any other Party hereto or any person associated with any Party hereto, any consideration for the withdrawal of the application of Santiago and Rodriques, except as expressly recited and disclosed herein.

10. Binding Agreement; Enforcement. Each of Parties further warrants that those Agreement is legally binding upon such Party and is enforceable in accordance with its terms. in the event of any action to enforce this Agreement, the prevailing party shall

be entitled to recover the costs of its lawsuit including reasonable attorneys fees from the non-prevailing Party.

11. Severability. In the event that any provision contained in the Agreement shall for any reason be found to be invalid, illegal or unenforceable, such finding shall not affect any other provision of the Agreement, and the parties will use their best efforts to amend the Agreement to create a legal, valid and enforceable contract to perform their respective obligations under Agreement.

12. applicable Law. This Agreement shall be constructed under the Communications Act of 1934, as amended, rules and regulations of the FCC, where applicable, and the Laws of the Commonwealth of Puerto Rico.

13. Titles. Titles to sections have been inserted for convenience only and are not intended to be a part of or affect the meaning of this Agreement.

14 Counterparts This agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be in full force and effect as of the date first written above.


LLOYD SANTIAGO-SANTOS


AUREO A. MATOS

DECLARATION

I, Aurio A. Matos, pursuant to section 1.16 of the Commission's Rules do hereby declare:

1. I am an applicant for a new FM Station at Culebra, Puerto Rico on Channel 293A (File No. BPH-911114MS). My application is mutually exclusive with the application of Lloyd Santiago-Santos and Lourdos Rodrigues-Bonet ("Santiago and Rodrigues"). Their application bears File No. BPH-911115MP.

2. I have entered into a Settlement Agreement with Santiago and Rodrigues whereby I will be reimbursing them for up to \$50,000 of the expenses in consideration for the voluntary dismissal of their application, which will allow for the grant of my application. I have also agreed to employ Sr. Santiago and Sra. Rodrigues as part-time consultants at the new station for a period of two years for a salary of \$12,500 per year. Other than the consideration set forth in the Settlement Agreement, I have neither paid nor received, nor have I been promised payment or promised to pay any other consideration for the grant of my application and dismissal of the Santiago and Rodrigues application.

3. I believe that approval of the Settlement Agreement would be in the public interest. Approval of the Settlement Agreement will eliminate the need for further hearings (except for the resolution of the Petition to Reopen the Record and Enlarge Issues filed by the Mass Media Bureau on January 28, 1994), and will help conserve applicant and Commission resources. Approval of the Settlement Agreement will also allow for the fastest commencement of new FM service to Culebra, Puerto Rico.

4. I did not file my application for the purposes of effecting settlement of this case. I was and remain fully prepared to prosecute my application, if necessary.


Aurio A. Matos

Signed and dated this 3 day of March, 1994

DECLARATION

I, Lloyd Santiago-Santos, under penalty of perjury and pursuant to Section 1.16 of the Commission's Rules, do hereby declare:

1. My wife, Lourdes Rodriguez-Bonet, and I filed an application for a new FM broadcast station to serve Culebra, Puerto Rico with the Federal Communications Commission. The application bears FCC File No. BPH-911115MP and was assigned to MM Docket No. 93-89.

2. We have entered into a Settlement Agreement ("Agreement") with Aurio A. Matos ("Matos"), a mutually exclusive applicant for the station in Culebra (BPH-911114MS), whereby our application will be dismissed in return for monetary consideration. The amount of the monetary consideration will not exceed the reasonable and prudent expenses my wife and I have spent in the preparation and prosecution of our Culebra application.

3. We have attached as Exhibit A, a list of our reasonable expenses. Exhibit B is an affidavit from our attorney verifying the amount of legal expenses we represent we have spent on the preparation and prosecution of our Culebra application. Exhibit C is an affidavit from our engineer verifying the amount of engineering expenses we represent we have spent on the preparation and prosecution of our Culebra application.

4. My wife and I have agreed to work with Matos on a part-time basis for the first two years after he receives his construction permit. I have agreed to work on a part-time basis as an Operations Consultant for the annual compensation of \$12,500.

5. Our application for Culebra, Puerto Rico was not filed for the purpose of reaching or carrying out an agreement for its dismissal. The only consideration that my wife and I will receive is the money paid by Matos, in reimbursement of expenses and consulting salary, as set forth in the Agreement.

6. I believe that the Agreement is in the public interest because it will conserve our resources and the resources of the FCC, and will allow for the rapid delivery of new service to the community of Culebra, Puerto Rico.

7. No other person or entity has paid or promised any consideration to me or my wife for the dismissal of our Culebra, Puerto Rico application.

Lloyd Santiago-Santos

Lloyd Santiago-Santos

Signed and dated this 3 day of March, 1994.

DECLARATION

I, Lourdes Rodriguez-Bonet, under penalty of perjury and pursuant to Section 1.16 of the Commission's Rules, do hereby declare:

1. My husband, Lloyd Santiago-Santos, and I filed an application for a new FM broadcast station to serve Culebra, Puerto Rico with the Federal Communications Commission. The application bears FCC File No. BPH-911115MP and was assigned to MM Docket No. 93-89.

2. We have entered into a Settlement Agreement ("Agreement") with Aurio A. Matos ("Matos"), a mutually exclusive applicant for the station in Culebra (BPH-911114MP), whereby our application will be dismissed in return for monetary consideration. The amount of the monetary consideration will not exceed the reasonable and prudent expenses my husband and I have spent in the preparation and prosecution of our Culebra application.

3. To my husband's Declaration, we have attached as Exhibit A, a list of our reasonable expenses. Exhibit B is an affidavit from our attorney verifying the amount of legal expenses we represent we have spent on the preparation and prosecution of our Culebra application. Exhibit C is an affidavit from our engineer verifying the amount of engineering expenses we represent we have spent on the preparation and prosecution of our Culebra application.

4. My husband and I have agreed to work with Matos on a part-time basis for the first two years after he receives his construction permit. I have agreed to work on a part-time basis as

a Financial Consultant for the annual compensation of \$12,500.

5. Our application for Culebra, Puerto Rico was not filed for the purpose of reaching or carrying out an agreement for its dismissal. The only consideration that my husband and I will receive is the money paid by Matos, in reimbursement of expenses and consulting salary, as set forth in the Agreement.

6. I believe that the Agreement is in the public interest because it will conserve our resources and the resources of the FCC, and will allow for the rapid delivery of new service to the community of Culebra, Puerto Rico.

7. No other person or entity has paid or promised any consideration to me or my husband for the dismissal of our Culebra, Puerto Rico application.


Lourdes Rodriguez-Bonet

signed and dated this 3 day of March, 1994.

EXHIBIT A

APPLICATION EXPENSES OF
LLOYD M. SANTIAGO AND LOURDES RODRIGUEZ

Oconnor & Hannan	ATTORNEY FEES	\$ 29,771.98
Isabel Rodríguez Bonet	ATTORNEY FEES	1,000.00
Du Treil & Assoc.	ENGINEERING FEES	4,200.00
Federal Communications	FILING & HEARING FEES	8,790.00
A.J.Fournier	TOWER SITE LEASE	5,000.00
Periódico El Vocero	ADV. FEES	205.00
Lloyd Santiago	TRAVEL TO CULEBRA	1,000.00
Federal Express	MAIL	150.00
Bonafide	DEPOSITION	<u>600.00</u>
TOTAL.....		<u>\$ 50,716.98</u>

EXHIBIT B

DECLARATION

I, Audrey P. Rasmussen, Esquire, do hereby state the following:

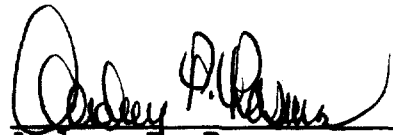
1. I am an attorney at the Law Firm of O'Connor & Hannan, 1919 Pennsylvania Avenue, N.W., Suite 800, Washington, D.C. 20006. O'Connor & Hannan represents Lloyd Santiago-Santos and Lourdes Rodriguez Bonet before the Federal Communications Commission in the proceeding in MM Docket No. 93-89, for a construction permit for a new FM Station on Channel 293A in Culebra, Puerto Rico.

2. The application expenses listed on the attached Exhibit A in connection with O'Connor & Hannan are those which have been paid to O'Connor & Hannan in connection with the prosecution of the rule-making proceeding and the application for the referenced Culebra facilities.

3. The facts stated herein are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 7, 1993.


Audrey P. Rasmussen